

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

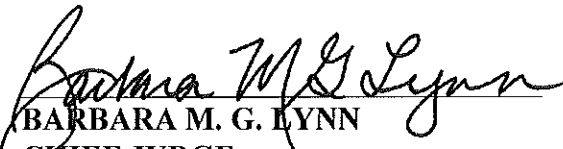
DONALD L. WISE, JR.,	)	
	)	
Plaintiff,	)	
vs.	)	No. 3:16-CV-1039-M
	)	
CHRIS WILMOTH, et al.,	)	
	)	
Defendants.	)	

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

After reviewing the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and conducting a *de novo* review of those parts of the Findings and Conclusions to which objections have been made, I am of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

The defendants' *Motion to Dismiss Under Rule 12(b)(1) and 12(b)(6)*, filed November 28, 2016 (doc. 45) is **GRANTED in part** and **DENIED in part**. By separate judgment, the plaintiff's constitutional claims will be **DISMISSED without prejudice** for lack of subject-matter jurisdiction, but to the extent that subject-matter jurisdiction exists, the claims will be **DISMISSED with prejudice** for failure to state a claim upon which relief can be granted. All of the plaintiff's state law claims against D. Scott Curry will be **DISMISSED with prejudice** based on qualified immunity, and alternatively, for failure to state a claim. The remaining state law claims will be *sua sponte* **DISMISSED with prejudice** for failure to state a claim. Plaintiff's motion for summary judgment is **DENIED AS MOOT**.

SIGNED this 31 day of July, 2017.

  
BARBARA M. G. LYNN  
CHIEF JUDGE